

Chairperson John R. Clark
Vice-Chairperson Michael Parks
Parliamentarian Don Maxwell



Commissioners
Michael Beckendorf
John Bond
Helen Chavarria
Ralph Davila
Robert Horton
G.H. Jones

MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, AUGUST 7, 2008
AT 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

1. CALL TO ORDER.

Chairperson Clark called the regular meeting to order at 6:00 p.m.

Commissioners	Present	2008 Regular Meetings Held	2008 Regular Meetings Attended	Regular Meetings Held During Last 6 Months	Regular Meetings Attended During Last 6 Months
Michael Beckendorf	Yes	15	11	12	10
Johnny Bond	Yes	15	15	12	12
Helen Chavarria	Yes	15	12	12	10
John R. Clark	Yes	15	14	12	12
Ralph Davila	Yes	15	15	12	12
Robert Horton	Yes	15	12	12	12
G. H. Jones	Yes	15	14	12	12
Don Maxwell	Yes	15	11	12	11
Michael Parks	Yes	15	11	12	9

Staff members present: Ms. Lindsey Guindi; Planning Manager; Mr. Randy Haynes, Staff Planner; Mr. Michael Gary, Assistant City Attorney; Mr. Dale Picha, Director of Traffic and Transportation; and Ms. Kelli Hill, Planning Intern.

2. HEAR CITIZENS.

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.

There were none.

4. CONSENT AGENDA.

A. Approval of meeting minutes from the workshop and regular meetings on July 17, 2008.

B. Alley Closing AC08-02: Herb Currie

R. Haynes

A request to permanently close a 10-foot wide and 106-foot long section of alley right-of-way located at 700 East 32nd Street adjacent to Lots 18, 19 and 20 in Block 22 of Cavitt's Bryan Heights Subdivision of the Phillips Addition in Bryan, Brazos County, Texas.

Chairperson Clark stated that consent agenda item 4.B. had been removed due to an inadvertent error in notification and will be considered during the Commission's next regular meeting on August 21.

Commissioner Jones moved to approve the remaining item on the Consent Agenda. Commissioner Parks seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

5. Planning Exception PE08-04: Doug Symank and John Gale

R. Haynes

A request for approval of an exception from the requirement to install a sidewalk in conjunction with a proposed residential replat on property located at 4300 Boyett Street, being Lot 11 in Block 2 of Hyde Park Addition in Bryan Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of this exception, based on the following findings:

- the existing development pattern along Boyett Street makes installation of sidewalks unadvisable;
- requiring infrastructure that will cause a hazard to accomplish the replat is an unreasonable burden upon the applicant;
- granting of this exception is necessary for the owners to avoid the above referenced hardships;
- granting the exception would not be detrimental to public health, safety, or welfare of the general public; and
- granting the exception would not effect the development of other property in the vicinity.

Responding to questions from Commissioner Parks, Mr. Haynes stated that the parking that exists in the right-of-way was permitted at the time the property was developed. He stated that it is more efficient for the Solid Waste Department to serve about a dozen buildings with one dumpster than

many trashcans for every building. He also stated that this request is keeping in character with the surrounding development of the area.

The public hearing was opened.

Ms. Sally Duchene, owner of a neighboring property, came forward with a question about the dumpsters. Mr. Haynes addressed her question, stating that the dumpsters were on public property.

The public hearing was closed.

Commissioner Maxwell moved to approve Planning Exception PE08-04, accepting the findings of staff. Commissioner Jones seconded the motion.

Commissioner Parks stated that although he is normally in favor of sidewalks, this particular case illustrates why the Commission is given the chance to look at each case individually.

Chairperson Clark stated that it was unfortunate that this is the way the property was developed 40 years ago.

Commissioner Maxwell echoed the sentiments of the other commissioners.

The motion passed with a unanimous vote.

6. Planning Variance PV08-26: Doug Symank and John Gale

R. Haynes

A request to allow a variance of 19 inches to the 100 foot lot depth requirement generally required of lots within a Multiple-Family District (MF) zoning district on property located at 4300 Boyett Street, being Lot 11 in Block 2 of Hyde Park Addition in Bryan Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval based on the following findings:

- the requested depth variance is minor enough in nature that strict application of the provisions of the ordinance will deprive the applicant of a reasonable opportunity to replat a lot where two structures currently exist;
- the request to replat the applicant's property in the manner proposed is in all respects reasonable and the variance is necessary for this to occur;
- this variance will no detrimental affect on the public health, safety or welfare of other properties or public facilities in the area; and
- granting this variance will not have any adverse affect on development of this or any other property in the area.

Responding to questions from Commissioner Maxwell, Mr. Haynes stated that having one building on one lot allows the applicant to gain more options for financing. He also stated that the owner is proposing improvements on existing buildings, but not any further development.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Chavarria moved to approve Planning Variance PV08-26, accepting the findings of staff. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

7. Planning Variance PV08-23: Luis Ramos

R. Haynes

A request for approval of an 8-foot variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts of Bryan, to legitimize previous construction of a porch addition that extends within 17 feet from the front property line of property located at 4201 Marsh Street, specifically occupying Lot 12 in Block 23 of the Margaret Wallace Subdivision in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval based on the following findings:

- the encroachment on this property is of a type that will have negligible impact upon the streetscape, and granting the front setback variance will not have a detrimental effect to either the subject or area properties;
- granting the front setback variance will not have detrimental effect to the abutting properties, and
- there are minimal benefits to be derived by the general public resulting from the removal of the encroaching structure from the front setback area.

Responding to questions from Commissioner Davila, Mr. Haynes stated that this variance, if approved, will legitimize the porch construction that exists and not any more.

Commissioner Parks asked if this structure is in keeping with the character of the neighborhood; Mr. Haynes said that it was. Ms. Guindi pointed out on the displayed picture that a neighboring house with the same structure on the front appears to be set back further on the property.

Responding to a question from Commissioner Davila, Mr. Haynes stated that granting the variance does not relieve the applicant from the obligation of obtaining a permit and having inspections.

Commissioner Maxwell noted that the issue of code enforcement was not relevant to the topic at hand.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Maxwell moved to conditionally approve the request for variance in case number PV 08-23 for the sole purpose of legitimizing the existing structure, adopting the written staff report and analysis as facts and findings of the Commission. The conditions for this approval are that, outside of normal repairs, no further development of this structure beyond the current condition is to be allowed. Commissioner Horton seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

8. Planning Variance PV08-25: James Cash Gooden, Jr.

R. Haynes

A request for approval of a complete variance from the minimum 25-foot front building setback generally required on lots in residential zoning districts of Bryan, to legitimize previous installation of a carport that extends all the way to the front property line on property located at 1020 Bittle Street, specifically occupying Lot 22 in Block 3 of the West Park Subdivision in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends denying this variance request, based on the following findings:

- the encroachment is of a type that currently has no precedent along Bittle Lane and allowing the variance will have a long term detrimental effect to the subject and area properties;
- granting the variance will be detrimental in its effect on the abutting properties;
- the owner/applicant will suffer hardship in two ways if the variance is denied; the applicant will be unable to obtain a building permit for the existing structure, and the owner appears to have no other options for the placement of a carport structure on his property;
- the benefits derived by the public and area property owners by enforcement of the ordinance are considerable, including the preservation of the current established building line in the neighborhood, and the integrity of the neighborhood will be kept intact, and
- the benefits derived by the general public from the preservation of rights of the adjoining and area property owners are more compelling than the hardships that will result from the denial of this variance request.

Commissioner Parks expressed concerns about the lack of knowledge obtained by the contractor who installed the carport. Commissioner Maxwell stated that it was a moot discussion.

Responding to a question from Commissioner Davila, Mr. Haynes stated that contractors are required to register with the city and that in that process the contractor is educated on city ordinances. Mr. Haynes also stated that although there is some space between the back of the carport and the house, he did not think the space was wide enough to make a difference if the carport was moved back.

Responding to a question from Commissioner Parks, Mr. Haynes stated that there is no precedent in the neighborhood for the projecting structure.

The public hearing was opened.

Mr. James Gooden, 1020 Bittle Lane, applicant, came forward to speak in favor of the request. He stated that he did not know what was needed at the time of installation of the carport. He said he purchased it from J&W Trading. He presented pictures of the carport.

Ms. Lisa Gooden, wife of the applicant, came forward to speak in favor of the request. She stated that they are law-abiding citizens, and that J&W did not inform them about the dimensions of the carport. She stated that they are first-time homeowners, and that it would cost so much to tear it back down that they would like to keep it. She stated that she had spoken to their neighbors, and that they did not have a problem with the structure.

Responding to a question from Commissioner Jones, Ms. Gooden stated that they have resided at the subject property for 3 ½ to 4 years.

Responding to a question from Commissioner Beckendorf, Ms. Gooden said the carport was installed in February 2008.

Commissioner Davila asked about a timeframe for removal of the carport if the variance was denied. Mr. Haynes stated that there was no specific timeframe, and that staff would work with the applicant on a reasonable timeframe and relocation of the structure.

Chairperson Clark pointed out that the applicant can appeal the decision to the City Council.

Responding to a question from Commissioner Horton, Mr. Haynes stated that moving the carport back towards the house would require a variance that would not be significantly different than the one that is being requested.

Responding to a question from Commissioner Maxwell, Mr. Haynes stated that a citizen complaint to the Code Enforcement Department brought the issues to staff's attention.

The public hearing was closed.

Commissioner Beckendorf moved to deny Planning Variance PV08-25, accepting the findings of staff. Commissioner Maxwell seconded the motion.

Commissioner Davila stated that this is an unfortunate situation and the contractor should know what the requirements are, but that the City has an ordinance that needs to be followed.

Commissioner Beckendorf agreed with Commissioner Davila and stated that the contractor has the liability in this case.

Commissioner Maxwell also stated that this is an unfortunate situation.

Chairperson Clark stated that the contractor should know about the ordinance, but that it is a complete encroachment, there is no precedent for carports in the area, and protecting the aesthetics of the neighborhood is important.

The motion passed with a unanimous vote.

9. Conditional Use Permit CU08-05: Juan Salazar

R. Haynes

A request for approval of a Conditional Use Permit to allow an accessory dwelling on property in a Residential District – 5000 (RD-5) zoning district, specifically on property located at 108 South Reed Avenue, specifically occupying parts of Lots 3, 4 and 5 in Block 237 of Bryan Original Townsite in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval of this request, based on the following findings:

- if the conditional use permit is approved, the subject site would be in conformance with all other applicable zoning codes;

- the proposed accessory dwelling is compatible with existing residential uses surrounding the subject property;
- the proposed accessory dwelling unit will not adversely affect the safety and convenience of vehicular and pedestrian circulation in this vicinity, considering existing zoning and land uses in the area;
- staff is unable to identify any adverse impacts that may result from the proposed use at this location;
- adequate off-street parking is proposed, as required by the City of Bryan Land and Site Development Ordinance; and
- the proposed accessory dwelling meets the objectives and purpose of the residential zoning district within which it is proposed to be located.

Responding to a question from Commissioner Parks, Mr. Hayes stated that adding another dwelling use to this property will not exacerbate the current situation, and that the parking space they are providing exceeds the requirements of the addition.

Responding to questions from Commissioner Maxwell, Mr. Haynes stated that all utilities for this accessory structure must be taken from the parent structure, and BTU policy will not provide separate services on a lot like the subject property. Commissioner Maxwell stated that this prevents future owners from splitting the dwellings into two on the same property, which is in violation of the zoning ordinance.

Chairperson Clark gave the definitions for “accessory dwelling unit” and “accessory structure”.

Responding to a question from Commissioner Davila, Mr. Haynes stated that the conditional use permit will stay with the property from now on.

The public hearing was opened.

Mr. Ruben Ramirez, 108 South Reed Avenue, came forward to speak in favor of the request. He stated that the applicant is his father-in-law, who was robbed once and almost robbed twice, so he and his wife moved in with them. He stated that they are senior citizens, and he and his wife will be living in the main house with their 3 children. He stated that the site plan has parking for four cars, and he asked for the Commission’s approval of the request.

The public hearing was closed.

Commissioner Davila moved to approve Conditional Use Permit CU08-05, accepting the findings of staff. Commissioner Jones seconded the motion.

Commissioner Maxwell stated that this is an appropriate use for the property.

The motion passed with a unanimous vote.

10. Conditional Use Permit CU08-08: Plainsman Condominium Association

R. Haynes

A request for approval of a Conditional Use Permit to allow condominiums on property in a Retail (C-2) zoning district, specifically on property located at 3810 Plainsman Lane, being Lots 1 thru 4 in Block 4 of Enchanted Meadows Subdivision – 1st Installment, East Section in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approval based on the following findings:

- zoning regulations include multiple-family dwellings as a conditional use in the C-2 zoning district;
- the existing condominium development is compatible with the surrounding land uses and provide a needed transition between the retail zoning along 29th Street and residential land uses in the adjacent Enchanted Meadows Subdivision;
- the area has developed with the condominium project in place and approval of the conditional use will have no effect on traffic conditions;
- staff is unable to identify any adverse impacts that may result from the proposed use at this location;
- adequate and convenient off-street parking is available on the premises, as required by the City of Bryan Land and Site Development Ordinance; and
- the condominium use meets the objectives and purpose of the retail district within which it is located.

Responding to a question from Commissioner Maxwell, Mr. Haynes stated that the condominiums are a legal nonconforming use, and condominiums are a conditional use in a retail zoning district.

Commissioner Maxwell stated that this is one of the anomalies that occurred when the zoning was introduced in Bryan in 1989.

Chairperson Clark stated that, properly zoned, condominiums are a good buffer use.

Responding to a question from Commissioner Parks, Mr. Haynes stated the he informed the applicant that a zoning change would be a better alternative to coming into compliance, however the owner had a timeframe to close on the property and a conditional use permit does not require action by the City Council.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Bond moved to approve the Conditional Use Permit CU08-08, accepting the findings of staff. Commissioner Jones seconded the motion.

Commissioner Parks clarified that the only condition being approved is the multi-family use and that there were no other conditions. Mr. Haynes said he was correct.

Chairperson Clark stated that if the property were destroyed under the conditional use, the owner cannot rebuild a multi-family structure. Mr. Haynes stated that he was correct.

The motion passed with a unanimous vote.

11. ADJOURN

Without objection, Chairperson Clark adjourned the meeting at 6:56 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the **21st** day of **August, 2008**.

John R. Clark, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Lindsey Guindi, Planning Manager and
Secretary to the Planning and Zoning
Commission